IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH NOVEMBER 2007 / 29TH KARTHIKA 1929

Bail Appl..No. 6882 of 2007()

CRMP.2490/2007 of DISTRICT COURT, KOTTAYAM
CRIME NO.510/07 OF VAIKOM POLICE STATION

.....

PETITIONER/IST ACCUSED

PREMJI T., S/O.THANKAPPAN,
CHAPPADATHU, KUDAVECHOOR P.O.,
VAIKOM.

BY ADV. SRI.SUJITH MATHEW JOSE

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
(FOR CIRCLE INSPECTOR OF POLICE, VAIKOM,
CRIME NO: 510/2007, VAIKOM POLICE STATION).

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 20/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 6882 OF 2007

Dated this the 20th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. He faces allegations in a crime registered for offences punishable, inter alia, under Sec.308 of the IPC. The crux of the allegations against the petitioner is that on account of animosity arising out of a prior incident between the 2nd accused and the de facto complainant, all the accused persons entered into a conspiracy and armed with dangerous weapons attacked the de facto complainant. Iron rods etc., were used. Allegedly severe injuries were inflicted on the de facto complainant. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the learned Sessions Judge was misled to believe that the

victim has suffered serious injuries. Absolutely no serious injuries have been suffered by the victim. An allegation under Sec.308 of the IPC has been raised with the sole intention of vexing and harassing the petitioner. The inclusion of the said allegation only shows the anxiety of the police to help and oblige the de facto complainant. That allegation has been included with the sole intention of ensuring that the petitioner and the co-accused remain in custody for as long a period as possible. In these circumstances, anticipatory bail may be granted to the petitioner, it is prayed.

3. The order passed by the learned Sessions Judge suggests that the victim has suffered severe injuries. Therefore, the learned Public Prosecutor was requested to get the wound certificate and explain to this Court the details of the injuries.

4. The learned Public Prosecutor, after perusing the wound certificate, accepts that the victim has not suffered any severe injuries. The nature of the injuries has been read over to me. I am satisfied that the injuries suffered are simple in nature though there is an allegation that dangerous weapons were used for the commission of the offence. All the co-accused have already been granted anticipatory bail by the learned Sessions Judge.

5. The learned Public Prosecutor does not oppose the application; but only submits that appropriate conditions may be imposed in the interests of a fair, efficient and expeditious investigation.

6. I am satisfied, in the facts and circumstances of this case, that directions under Sec.438 of the Cr.P.C. can be issued in favour of the petitioners.

7. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 27/11/07. He shall be released on regular bail on his executing a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 28/11/07 and 29/11/07. During this period the Investigator shall be at liberty to interrogate the petitioner in custody and take all necessary steps. Thereafter the petitioner shall make himself available for interrogation before the Investigating Officer on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, he

shall so make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 27/11/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 27/11/07.

Sd/-
(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge